Mr Vikram Singh, Advocate.

This petition has been filed under Section 482 CrPC for setting aside the order dated 19.1.2007 (Annexure P3) passed by the learned Additional Sessions Judge, Panchkula and the order dated 29.7.2006 (Annexure P1) passed by the learned JMIC Panchkula vide which charge has been framed against the petitioner as also for quashing the impugned charge sheet dated 29.7.2006 (Annexure P2).

Learned counsel for the petitioner has submitted that the petitioner is a bonafide purchaser of the land. It is submitted that the seller of the land namely Jaspal Singh son of Jati Singh is alleged to have forged a power of attorney dated 23.6.1992 of Gurnaib Singh and Ram Partap Singh by impersonating them. Jaspal Singh executed a sale deed dated 19.10.1995 in favour of the Society of which the petitioner is the President on the basis of the said forged power of attorney. It is submitted that Gurnaib Singh son of Sada Singh one of the executants of the power of attorney as also Balbir Singh and Karamjit Singh sons of Sada Singh and Harvinder Kaur daughter of Sada Singh had filed a civil suit on 15.9.1996 against the Cooperative Society of which the petitioner is the President as also Karnail Singh and Jarnail Singh sons of Sada Singh the vendor of the land on the basis of power of attorney dated 23.6.1992. The suit was filed for challenging the validity of sale deed dated 19.10.1995. In the said suit, it was held that the defendant-1 Cooperative Society in the said suit was a bonafide purchaser for value and consideration and is liable to be protected under Section 41 of the Transfer of Property Act. Therefore, it is submitted that the findings recorded in the civil suit are operative and binding in the criminal trial.

I have given my thoughtful consideration to the matter.

It is appropriate to note that a perusal of the impugned order dated 19.1.2007 (Annexure P3) would show that in terms of the final report (challan) submitted by the Police under Section 173 CrPC, it was mentioned that Jarnail Singh and Karnail Singh, real brothers of Gurnaib Singh who executed the power of attorney dated 23.6.1992 in favour of Jaspal Singh, were recorded and they had stated that general power of attorney was a genuine document and the signatures of the executants on the same were not forged. In these circumstances, the accused had been challaned for the offence under Section 420 IPC because the sale deed in respect of the share of the deceased – Sada Singh had been executed after his death. In the civil suit decided on 17.5.2004 (Annexure P4), Sada Singh, whose share is stated to have been sold after his death, was not a party. Learned counsel for the petitioner has failed to show as to how the share of Sada Singh was transferred in favour of the Cooperative Society of which the petitioner is the President. The reliance placed that Jaspal Singh had transferred it on the basis of power of attorney dated 23.6.1992 is absolutely misplaced and misconceived for the reason that the said power of attorney has been executed by Gurnaib Singh and Ram Partap Singh and the accused are not being proceeded against for forgery of the power of attorney. They are being proceeded against for cheating and conspiracy inasmuch as the share of Sada Singh has been transferred in favour of the Cooperative Society of which the petitioner is the President, after the death of Sada Singh. The findings recorded in the civil suit decided on 17.5.2004 (Annexure P4), therefore, would not apply in the case.

For the fore going reasons, there is no merit in this petition and consequently the same is dismissed.

1.5.2007. (S.S.SARON)
ASR JUDGE